

**ANNUAL REPORT  
OF THE  
INDIANA CHILD CUSTODY AND SUPPORT  
ADVISORY COMMITTEE**



**Indiana Legislative Services Agency  
200 W. Washington Street, Suite 301  
Indianapolis, Indiana 46204**

**October, 2003**

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# **INDIANA CHILD CUSTODY AND SUPPORT ADVISORY COMMITTEE**

## **Membership Roster**

### **Senators**

**David Ford, Chairperson  
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**John Brandt  
Fort Wayne**

**Rep. Carolene Mays  
Indianapolis**

### **Staff**

**K.C. Norwalk  
Attorney for the Committee**

**Mark Goodpaster  
Fiscal Analyst for the Committee**

A copy of this report is available on the Internet. Reports, minutes, and notices are organized by committee. This report and other documents for this Committee can be accessed from the General Assembly Homepage at <http://www.state.in.us/legislative/>.

## **I. STATUTORY DIRECTIVE**

The Indiana General Assembly enacted legislation (see IC 33-2.1-10) directing the Committee to study the child support guidelines adopted by the Indiana Supreme Court, including the following:

- (1) The mathematics pertaining to the child support guideline chart.
- (2) The actual costs of supporting a child.
- (3) Whether it is appropriate to calculate child support guideline amounts based primarily upon the ability of the parent to pay rather than the financial needs of the child.
- (4) Equality of child support awards for the children of the parties, regardless of birth order.
- (5) A mechanism that may be employed to modify the amount of support to be paid due to a change in financial circumstances or a change in the number of children being supported by either parent.
- (6) The age of a child to the extent that the child may require different amounts of support at different ages.
- (7) Clarification regarding under what circumstances, if any, support may be abated.
- (8) A mechanism that may be employed to ensure that the guidelines are applied flexibly.
- (9) The application of the guidelines to a split custody situation.
- (10) Whether it is appropriate to base child support guidelines upon the premise that the child should enjoy the same standard of living that the child would have enjoyed had the family remained intact.

The Committee must also review custody, educational expenses and other items relating to the welfare of a child of a family that is no longer intact.

## **II. INTRODUCTION AND REASONS FOR STUDY**

See Section I above.

## **III. SUMMARY OF WORK PROGRAM**

The Committee met two times during the 2003 interim.

The first meeting was held at the State House on September 29, 2003. The Committee discussed the grandparent visitation statute, joint legal custody, arbitration in family law, and child support and parenting time guidelines.

The second meeting was held at the State House on October 16, 2003. The Committee discussed arbitration in family law, the child support guidelines, and fees in alternative dispute resolution cases. The Committee also approved the final report by a voice vote.

## **IV. SUMMARY OF TESTIMONY**

### Grandparent Visitation Statute

Information was provided regarding the history of the grandparent visitation statute. Testimony was also given stating that the statute needs to be revised because it does not reflect current constitutional law and does not acknowledge problems inherent in grandparent visitation litigation.

### Joint Legal Custody

Testimony was given suggesting that joint legal custody should be the rebuttable presumption in dissolution of marriage cases. Additional testimony was given about personal experiences with joint legal custody problems.

### Arbitration in Family Law

Testimony was given explaining problems with and the benefits of the current state of arbitration in family law cases.

### Child Support and Parenting Time Guidelines

The Indiana Supreme Court approved new child support and parenting guidelines to be effective January 1, 2004. Testimony was provided to the Committee that the amended Guideline 6 of the child support rules could result in the loss of federal funds. Testimony was also given that custodial parents may have a financial incentive to prevent the noncustodial parent from having visitation with their child because the noncustodial parent will not receive as much of a reduction in child support payments if the actual number of overnight visits is low. Additionally, testimony was provided that prosecutor's offices do not have a sufficient number of employees to track visitation as required in the amended guidelines. Testimony was also given that the amended guidelines would not affect federal funding or create unfair financial incentives.

### ADR in Domestic Relations Cases

Information was provided regarding the effects of HEA 1034 (2003) and how alternative dispute resolution in domestic relations cases in Allen County has been successful. Testimony was also given regarding the \$20 fee in ADR domestic relations cases and how the fee is used to foster ADR and to assist lower income individuals with mediation expenses.

### **Preliminary Drafts**

#### **PD 3157-Parenting Time**

This draft replaces references to "visitation" with "parenting time" in parental custody statutes. The Committee approved this draft in a roll call vote, 7-0

#### **PD 3350-Arbitration in Family Law**

This draft requires binding arbitration in family law arbitrations to be irrevocable and provides procedures for family law arbitration cases. Although the Committee voted 5-2 to approve this draft, the draft was not officially approved by the Committee because the votes of a majority of the members of the Committee (at least 7 members) were required for approval under the rules of the Legislative Council.

## **V. COMMITTEE FINDINGS AND RECOMMENDATIONS**

The Committee made no findings of fact.

The Committee recommends that the Indiana Supreme Court consider the implications of Guideline 6 of the amended child support guidelines that are effective January 1, 2004. Possible implications include:

- (1) the loss of federal funds;
- (2) an insufficient number of employees at prosecutor's offices to track child visitation; and
- (3) that a custodial parent may have a financial incentive to prevent the noncustodial parent from having visitation with their child. This possible financial incentive may occur because the noncustodial parent will not receive as much of a reduction in child support payments if the actual number of overnight visits is low.

## WITNESS LIST

Robert Beckman, Laporte County Prosecutor

David Dinn, Indiana Children's Rights Council

Charles Erickson

Melanie Gifford

Steve Johnson, Indiana Prosecuting Attorney's Council

Karla Matia, Indiana Family and Social Services Administration

Bruce Pennamped, Attorney at Law

Daphne Risch, Indiana Family and Social Services Administration

Judge Michael P. Scopelitis, St. Joseph Superior Court and Chair of the Domestic  
Relations Committee of the Judicial Conference of Indiana.

Karen Wyle, Attorney at Law